

I. EXECUTIVE SUMMARY

Human Rights Impact Assessment (HRIA) is a promising new concept/tool for protecting human rights and promoting sustainable development. Lessons learned from environmental impact assessment can assist greatly in realizing HRIA's full potential.

Environmental Impact Assessments (EIA) has been a tool for environmental and social betterment for over 40 years. EIA practices can foster public engagement and democratic processes; produce valuable information that improves decision-making; enhance transboundary cooperation; and ultimately improve the environmental and social impacts of development.

Yet EIA has been plagued by shortcomings. Developers of EIAs often lack expertise and training. Baseline data is regularly insufficient, and there are no central repositories of baseline information. Public participation frequently occurs late in the EIA process, and a range of obstacles from illiteracy to intimidation tactics can preclude participation. Mitigation measures recommended in an EIA are often ignored in the absence of external controls. The validity of predicted impacts is rarely checked against actual outcomes. Investigations on EIA effectiveness have focused on whether EIA procedures are followed, rather than whether outcomes are desirable. Finally, the multitude of EIA-type documents – trade sustainability impact assessments (TSIA) and strategic environmental assessment (SEA) – may cause confusion.

Developers of HRIA have the opportunity to capitalize on the advantages of EIA, and simultaneously progress beyond the problems that keep EIA from reaching its potential.

II. INTRODUCTION: THE PURPOSE AND ORIGINS OF EIA

Environmental Impact Assessment (EIA) is the process of identifying the anticipated environmental effects of proposed

developments.¹ EIA is used to make decisions more transparent and to mitigate negative environmental impacts of projects.²

The first EIA predecessor in the developing world was the report of the Equatorial Nile Project of 1954 in the Sudan.³ Subsequent EIA legislation was passed in the United States in the National Environmental Policy Act (NEPA) of 1969, in response to growing public concern about environmental damage.⁴ Since then EIA requirements have been adopted by over 100 countries.⁵

This paper looks at the various spheres of application of EIA. It then explores the following questions: What are the components of EIA, and what happens when critical components of EIA are missing? What is the role of public participation in the EIA process? What are the political dimensions of EIA? How can lessons learned from EIA be applied to HRIA?

III. CURRENT EIA APPLICATIONS

EIAs are currently applied at the international, regional and national level. EIA requirements are governed by conventional and customary international law, as well as domestic laws. In addition, EIAs are required by multilateral development banks and some export credit agencies as well as some private investment banks. Non-profit organizations are also working to put EIA tools in the hands of individuals, so they can determine the likely effects of development on their communities.

A. International Applications. Several international treaties include specific requirements for EIA, including:⁶

- Convention on Migratory Species (Bonn, 1979);
- UN Convention on the Law of the Seas (Montego Bay, 1982);
- Convention for the Protection of the Architectural Heritage of Europe (Granada, 1985);
- The Environmental Protocol to the Antarctic Treaty (Madrid, 1991);

- UN Convention on Biological Diversity (Rio de Janeiro, 1992);
- European Convention on the Protection of the Archaeological Heritage (Revised) (Valletta, 1992);
- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, 1998); and
- European Convention on Landscape (Florence, 2000).

In 1985, the European Economic Community established minimum EIA requirements for all member countries under Council Directive 85/337/EEC, as amended by Directives 97/11/EC2 and 2003/35/EC.

B. Customary International Law. Rio Principle 17, adopted at the 1992 UN Conference on Environment and Development, provides that EIA shall be undertaken in some circumstances. It states that EIA “as a national instrument, shall be undertaken for proposed activities that are likely to have an adverse impact on the environment and are subject to a decision of a competent national authority.”

The International Court of Justice (ICJ) recently found that the practice of EIA “has gained so much acceptance among States that it may now be considered a requirement under general international law” when an activity may have a significant transboundary impact.⁷ However, the ICJ did not specify the necessary scope and content of an EIA. It also did not find a legal obligation to undergo public consultations.

C. Human Rights and the Environment. EIAs are also relevant for human rights law concerning environmental pollution and natural resource use.

The principle of free, prior and informed consent (FPIC) “recognizes indigenous peoples’ inherent and prior rights to their lands and resources and respects their legitimate authority to require that third parties enter into an equal and respectful relationship with them, based on the principle of informed consent.”⁸ In practice FPIC requires: “(i) information about and consultation on any proposed initiative and its likely impacts; (ii) meaningful participation of indigenous peoples; and, (iii) representative institutions.”⁹ FPIC also applies to non-indigenous communities that are dependent on

natural resources. FPIC and EIA procedures are often undertaken simultaneously.

In some cases courts have awarded indigenous people damages based on destruction of their environment. The Inter-American Court of Human Rights (held in *Saramaka People v. Suriname* that the Saramaka People have a right to use and enjoy the natural resources in their traditional territory that are necessary to their survival.¹⁰ The Court declared that certain safeguards were necessary to ensure the survival of the group in situations where their property rights to natural resources were limited by the State, for instance by way of concessions. These safeguards include effective consultations, FPIC, and independent EIAs. The African Commission on Human and People's Rights used a similar reasoning in *Endorois v. Kenya*, involving forced resettlement of pastoral communities from their ancestral lands and denial of access to sacred sites.¹¹

In instances where pollution caused by third parties has interfered with the right to enjoy private life to such extent as to call for State protection, the European Court of Human Rights has resorted to a proportionality test and scrutinized the governmental decision-making process, including whether proper assessment of impacts and alternatives have been undertaken.¹²

D. Financial Institutions. The World Bank promulgated minimum EIA requirements in 1989 that all Bank-supported operations must meet.¹³ For example, the World Bank financed the Safir-Hadramout Road project, which was rerouted to avoid sensitive areas following an EIA.¹⁴ The extent of the EIA depends on the scale and potential environmental impact of a project.

Private banks that have adopted the Equator Principles require borrowers to conduct a Social and Environmental Assessment for certain categories of projects.¹⁵

In addition, certain export credit agencies, such as the U.S. Overseas Private Investment Corporation (OPIC), require companies to conduct an EIA if they seek political risk insurance for overseas projects.¹⁶

E. Donors. In some countries, EIAs are conducted in the absence of national requirements for the purpose of obtaining financial aid from international assistance organizations.¹⁷ For example, the U.S. Agency for International Development requires EIAs that comply with NEPA.¹⁸

F. Individual EIA. Oxfam America has created an instrument called the “Getting It Right” Human Rights Impact Assessment Tool, which allows affected communities to independently determine how proposed developments will affect their rights and well-being.¹⁹ Currently, Oxfam is using the tool to help migrant tobacco pickers in the United States and communities affected by a proposed natural gas operation in Bolivia conduct their own assessments.

G. Internal Laws and Practices. A number of international instruments direct the implementation of EIAs at the internal level. UNEP adopted Goals and Principles of EIA in 1987.²⁰ UNEP has also prepared an EIA Training Resource Manual, along with a compendium of case studies on EIA practice in developing countries, to help build the capacity for EIA in developing nations.²¹

IV. TYPES AND VARIATIONS OF EIA

Two main categories of EIAs can be distinguished. The first distinction concerns “procedural” EIAs, which trust that the EIA findings will influence decisions, but do not purport to bind decision-makers to the results of the EIA. By contrast, “substantive” EIAs require decision-makers to adopt measures consistent with the findings and recommendations of EIAs. The second distinction is between “mitigation” EIAs, which focus on identifying mitigation measures to minimize environmental damage, and “prevention or sustainability” EIAs, which focus on disallowing projects involving environmental harm.

In addition, some authors observe that “the alphabet soup of acronyms [and terms] currently makes for a confusing picture” when looking at the many variants of EIA:²²

- Strategic Environmental Assessments (SEAs) assess the environmental impacts of policies or programs, rather than specific development projects.
- Trade Sustainability Impact Assessments (TSIAs) seek to identify the potential economic, social and environmental impacts of a trade liberalization agreement.
- Transboundary EIAs are the focus of the Espoo Convention of 1991 and require

States to notify and consult each other on all major projects under consideration.

- Health Impact Assessments (HIAs) assess the impacts on human health of proposed activities. They have been institutionalized in many industrialized countries.
- Social Impact Assessments (SIAs) manage the social consequences of planned policies, programs, plans, and projects.
- Triple Bottom Line Assessments (also known as People, Planet, Profit), Extended Impact Assessment, 3-E Impact Assessment, and Integrated Assessments all aim to evaluate the impacts of proposed developments in a more holistic fashion.

V. BASIC COMPONENTS OF THE EIA DOCUMENT AND PROCESS

The EIA process begins with screening and scoping, which determine whether an EIA is necessary and, if it is, what information it should include. Most EIAs include baseline information, likely project impacts, analysis of alternatives (including the no-action alternative), mitigation measures, and monitoring. Lack of clarity about the legal definition of the components of an EIA can generate deficiencies in the final EIA product. Operating principles for the EIA process were developed by the International Association for Impact Assessment in response to a request by the EIA Global Guidelines Project.

A. Timing. The timing of EIA is critical: It must be done sufficiently early to be taken account fully in decision-making. In Zimbabwe, for example, an EIA was conducted for the Osborne Dam after construction had already begun.²³ This cripples the effectiveness of any potential alternatives or mitigation measures.

B. Screening. Screening determines whether an EIA is required for a particular project.²⁴ UNEP emphasizes the importance of clearly defined screening criteria “so that subject activities can be quickly and surely identified, and EIA can be applied as the activity is being planned.”²⁵

C. Scoping. Scoping is the selection of the information to be included in each EIA.²⁶ While specific issues will differ from project to project due to the variation among local conditions and project types,²⁷ minimum contents of EIAs have been identified. For example, the European

Directive 2001/42/EC and Espoo Convention now require health to be considered under SEA.²⁸

D. Baseline Determination. “Baseline” in an EIA refers to the existing physical, chemical, biological, socioeconomic, and cultural environment in which project impacts are expected to occur.²⁹ Establishing baseline data is often difficult where it is “out of date, at the wrong scale, not homogeneous, or not directly related to the plan in question.”³⁰

E. Foreseeable Project Impacts. EIA will include a range of scientific data and analysis, including with respect to biology, chemistry, and other relevant fields. This data will enable analysis and evaluation of impacts.

F. Available Alternatives. Ideally, alternatives to the proposed action should be examined, including the possibility of “no action.” Alternatives should be compared with respect to costs, environmental impacts, and physical, legal, and institutional constraints, and reasons for rejecting an alternative should be disclosed.

G. Mitigation Measures. Mitigation “could be considered as the foundation of the whole EIA process, in that it is the requirement to identify mitigation measures that translates the findings from the environmental assessment into recommendations to reduce the environmental impacts.”³¹ Yet there are currently no comprehensive guidelines for achieving effective implementation of mitigation measures.³² As a result, “there is a widespread perception that effective mitigation is seldom implemented in actual projects.”³³ For example, a study of 40 planning applications in the East of England found that only 50% of mitigation measures selected in the EIA were translated into actual obligations.³⁴

H. External Controls. External controls are often necessary to ensure that the recommendations of an EIA are achieved. As some scholars note, “[b]ecause their work loads are increased and their planning environments become more uncertain, organizations required to conduct formal assessments have little incentive to take EIA seriously in the absence of controls.”³⁵ Examples include judicial review, sanctions based on agency performance, professional standards, or public pressure.³⁶ Some jurisdictions also incorporate conditions into regulatory permits based on EIA findings.

Monitoring can also help ensure the success of an EIA. For example, continuous follow-up inspections were conducted by a consultancy for the Imigrantes Highway project in São Paulo State, Brazil.³⁷ As a result, the developer took 1,016 corrective actions and achieved a satisfactory level of compliance with the EIA.³⁸

VI. PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

A. Public Participation

- *Importance.* There is strong consensus that public participation is beneficial in environmental decision-making.³⁹ Many commentators feel that agencies will perform better if they are exposed to public criticism, and that the public will accept outcomes more readily if they are invited to be a part of the process.⁴⁰ In addition, public viewpoints can provide facts, suggest legal approaches, add creativity, and uncover additional alternatives.⁴¹

Failure to heed public concerns often leads to sub-optimal outcomes. For example, authors of the EIA for the Point Aconi coal plant in Nova Scotia did not heed interveners’ concerns about climate change, and now Nova Scotia Power cannot meet its CO₂ emission reduction targets without retiring the plant.⁴² In another example, individuals affected by the development of the Pak Mun Dam in Thailand were excluded from the EIA decision-making process, which “gave rise to protracted protests, demonstrations and confrontations.”⁴³

- *Definition of public.* Many authors have argued that “public” should be defined broadly, and some even argue that no definition should be used, since any definition could potentially exclude a relevant party.⁴⁴ Some commentators have noted biases in public participation around the world. For instance, in Colombia only certain segments of the population are given the opportunity for consultation in EIA procedures.⁴⁵

- *Public hearings.* The quality and effectiveness of public hearings varies widely from place to place. In some cases, public hearings are held only for select projects.⁴⁶ Low levels of literacy may inhibit the ability of affected individuals to understand proposed projects, which can lead to hostilities during public hearings.⁴⁷ The hearing conductors are often “conspicuously deferential” to project

proponents.⁴⁸ For example, project objectors have been refused entry to nuclear power hearings in India.⁴⁹ Individuals have been intimidated through police presence, and occasionally through force.⁵⁰ In other cases, public hearings have been held in remote locations that are difficult for affected individuals to access.⁵¹

- *Stakeholder or rightholder consultations.* The EC directive allows the timing of initial stakeholder consultation to vary widely across Member States. In some cases the public is consulted at the screening or scoping stage, but in most cases the public is consulted at the latest date required by the directive.⁵²

In the context of EIAs, concerning indigenous and tribal peoples rights, the jurisprudence of international human rights bodies, building on the provisions of ILO Convention 169 on the Rights of Indigenous and Tribal Peoples, has underscored that consultations need to be carried out in good faith, in a culturally appropriate manner, and with a view to obtaining consent.

- *Opportunities for comment.* UNEP advises that the public and experts be allowed sufficient time to comment on the EIA before a decision is made.⁵³ In many cases the public is not given sufficient time to gather information to make meaningful comments on highly technical EIA issues. For example, in Canada individuals are only given 30 days to make substantive comments before the Minister decides whether an EIA is appropriate. Commentators note that this amount of time is impractical.⁵⁴

B. Access to Information

One of the pillars of the Aarhus Convention is the right of access to environmental information.⁵⁵ Pursuant to the Aarhus Convention, European Directive 2003/4/EC mandates that local authorities respond to information requests within two months, without individuals having to state an interest in the information.⁵⁶

Explicitly citing Aarhus, the European Court of Human Rights in the *Tatar* case explicitly referred to the duty of the government to disclose the information relating to the environmental risks to the population.⁵⁷ Generally, this construct enables individuals to assess the environmental risks to which they are exposed,⁵⁸ as well as to take precautionary and preventive measures to avert the risks.

More generally, the Inter-American Court of Human Rights has recognized a general right of access to information in the *Claude Reyes* case involving public debate regarding exploitation of virgin forests in Patagonia.⁵⁹

In a case study of four waste disposal projects in the United Kingdom, “[t]he poor provision of basic procedural information was regarded by members of the local action groups and the public as a major barrier to ‘effective’ participation.”⁶⁰

C. Legal Action

The Aarhus Convention recognizes the right of access to justice in environmental matters.⁶¹ The Convention states that judicial or administrative review should be available whenever a request for information has been ignored or wrongfully rejected; to challenge the substantive or procedural legality of any act or omissions; to bring charges against actors who contravene environmental law. The Convention maintains that all of these judicial procedures should provide effective remedies and be “fair, equitable, timely and not prohibitively expensive.”

In addition, many nations provide opportunities for administrative or judicial review in EIA matters.

Citizens from EU countries can bring a complaint to the European Ombudsman, who investigates complaints about maladministration in the European Union. Member States, institutions and individuals can bring cases in the European Court of Justice for impact assessment complaints related to treaties.⁶²

States can also bring cases before international tribunals. For example, Ireland challenged the United Kingdom’s denial of access to certain information concerning the *MOX Plant* case before an arbitration tribunal established under the OSPAR Convention.

Resolution of disputes concerning transboundary EIAs can also be undertaken by the ICJ and/or an arbitration tribunal.⁶³ The ICJ also provides a forum for countries that have entered into certain international treaties, such as the Noumea Convention, which New Zealand claimed France violated by failing to prepare an EIA in the case of *New Zealand v. France* (1995).⁶⁴

VII. POLITICAL IMPLICATIONS OF EIA

A. *At its best, the EIA process:*

- Improves decisions and promotes sustainable development.
- Offers a vehicle for cooperation and dialogue between States, especially in situations involving utilization of shared resources or threats of transboundary environmental harm.
- Allows members of the public to express their views and mobilize political support or opposition to a proposed project.
- Enables public participation, which promotes democratic inclusion.
- Produces information and improves democratic access to information.
- Activates the administrative and judicial organs of the State.

EIAs, however, can also entangle States in international dispute settlement. For example, the recent *Pulp Mills* case before the ICJ involved what Argentina claimed to be a deficient EIA by Uruguay, in breach of the procedural obligations established in the treaty governing the rational utilization of the River Uruguay.

Another recent example is the *Pac Rim* arbitration before the International Centre for Settlement of Investment Disputes (ICSID): El Salvador considered that Pacific Rim's EIA for a proposed gold mine was deficient and did not approve it, thereby effectively preventing the mine from going forward.⁶⁵ Pacific Rim filed a claim for monetary damages with ICSID under the rules of the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). El Salvador argues that its laws allow its administrative authority to consider the EIA in deciding whether or not to grant a mining exploitation permit.

B. *How politics affect EIAs.*

Commentators have noted that "[d]ecisions are about whether [and how] a project should proceed . . . are ultimately and inherently political."⁶⁶ Economic power, scientific expertise, and public participation in the EIA process all affect the politics of EIA decisions.⁶⁷ Political factors, in turn, affect the outcome of EIA, the level of controversy, the production of information, and even countries' initial adoption of the EIA process.

C. Outcome. EIA has the ability to protect the environment and empower communities by

bringing their interests to the attention of decision-makers. By providing decision-makers with more complete information about the true costs and benefits of a proposed project, EIA can force decision-makers to conduct a "calculation of the political consequences of alternative decisions they might take."⁶⁸ However, some scholars are less than optimistic about the ability of EIAs to make substantial changes in the politics of development decisions.⁶⁹

As many scholars have argued, "environmental decision making is not just a technocratic process . . . there is an inevitable normative politics involved."⁷⁰ EIA involves questions of policy, such as weighing alternative paths of development, as well as questions of science. Decision-makers often use the EIA process to legitimize difficult choices. "Governments, in the contradictory position of development promoters and environmental regulators, have approached EIA as a means of political legitimation and the settlement of social claims."⁷¹ When the EIA process itself lacks legitimacy or highlights conflicts without resolving them, however, public distrust of EIAs can develop.

D. Controversy. Public participation in EIA often arises from controversy, which can be constructive to the planning process. Controversy is more likely for certain types of development, such as new transportation lines, dams, and facilities that deal with hazardous materials.⁷² Controversy is also more likely when land is taken from entrenched private owners, or when an action causes a disruption to land use. As one author demonstrates using the example of offshore drilling along the California coastline, "ingredients for a heated public dialogue" include "beautiful scenery, biological riches, and concerned citizens."⁷³ Public participation in EIAs can subdue controversy and protests. Legitimacy of the EIA process is also a key element in conflict mediation.⁷⁴

E. Information. Information gathered during the EIA process can be politically charged. "The politics of information integration (i.e., contested facts about impacts and livelihoods) tends to undermine collaboration in environmental assessment."⁷⁵ Methodological challenges can also emerge "when proponents and decision makers expect that the different types of knowledge are analytically compatible or conducive to quantitative impact analysis." However,

“[e]fforts to integrate knowledge frameworks are more likely to succeed when different value systems are accorded legitimacy.”

F. EIA Adoption. According to its main author, U.S. EIA principles “became law because of an undeniable groundswell of public demand in the late 1960s for government ‘to do something about the environment.’”⁷⁶

A country’s form of governance can impact the adoption of EIA as well. For example, nations such as Thailand, Indonesia, and Malaysia are less receptive to the EIA process because of their political regimes. As one scholar observes, EIA was born in Western democracies, but now it “is being transferred actively to industrializing nations having very different cultural and sociopolitical heritages and practices.”⁷⁷ The influence of “political factors that help or hinder the creation of indigenous EIA programs” have been under-recognized and inadequately studied, making it difficult to draw conclusions in this area.⁷⁸

VIII. LESSONS FOR HRIA IMPLEMENTATION

1. *Conduct HRIA early.* HRIA should be conducted sufficiently early to allow decision-makers to take the HRIA fully into account.

2. *Create opportunities for training and organizational support.*⁷⁹ Lack of training and expertise is one of the main causes for delays and inefficiencies in the creation of EIA documents.

3. *Define terms such as “affected party” and “affected area” broadly.* Broad definitions of impacts can help ensure that affected parties are included in the HRIA process.

4. *Maintain a database of baseline information.* An important shortcoming in EIA is insufficient baseline data.⁸⁰ A central repository of baseline information can boost the efficiency and quality of HRIA preparation.⁸¹

5. *Remove barriers to information.* Project proponents should be allowed to access information to facilitate baseline determinations and impact projections.⁸²

6. *Make HRIA components accessible to their authors.* Individual EIA authors often work in a vacuum rather than collaboratively, and as a result do not have a grasp on what the total EIA product should offer.⁸³

7. *Make public processes participatory rather than confrontational.*⁸⁴ Public

participation should foster a dialogue, rather than an opportunity for project proponents to attempt to palliate public views. This can be achieved through workshops, citizen advisory committees, opinion surveys, and public meetings that are not set up to be adversarial.

8. *Make public participation more front-ended.*⁸⁵ Public input should be solicited early in the HRIA process.

9. *Translate mitigation measures into formal requirements.* Mitigation measures should be subject to monitoring and auditing by an external party.⁸⁶ Another weakness of EIA is that “there is no formal mechanism to ensure that measures agreed at the planning stage are subsequently carried out, with the result that they are often ignored.”⁸⁷

10. *Compare predictions to outcomes.* It would be helpful to follow the impact predictions made in HRIAs over time to increase knowledge of their accuracy.⁸⁸

11. *Improve measurements of effectiveness.* The effectiveness of HRIAs should ideally be measured “with reference to the purposes underlying HRIA. For example, this might be “restoring and maintaining environmental quality” or sustainability.”⁸⁹ However, since this is a difficult concept to define, proxies have been developed instead, such as whether EIA procedures are followed or whether decisions are altered.⁹⁰

12. *Create a ratings system to compare HRIA documents to one another.* The information should be easily available to the public for quick comparisons of different groups that produce HRIAs.

13. *Investigate possible integration of HRIA, EIA, HIA, and other similar documents.* Some scholars recommend combining EIA, TSIA, SEA, and other documents “[i]n recognition of the linkages between the environmental, social, and economic dynamics.”⁹¹

ENDNOTES

- ¹ UNEP defines EIA as the “examination, analysis and assessment of planned activities with a view to ensuring environmentally sound and sustainable development.” United Nations Environment Programme, *Goals and Principles of Environmental Impact Assessment* (1987), available at http://www-penelope.drec.unilim.fr/penelope/library/Libs/Int_nal/une/une.htm.
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- ⁵ *Id.*
- ⁶ IAIA, *What Is Impact Assessment?* (2009).
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- ¹⁸ Ortolano et al., *supra* note 18, at 289.
- ¹⁹ Oxfam, *New Tools Help Communities Focus on Human Rights*, March 25, 2010, available at <http://www.oxfamamerica.org/articles/new-tool-helps-communities-focus-on-human-rights>.
- ²⁰ UNEP, *Goals and Principles of Environmental Impact Assessment* (1987).
- ²¹ United Nations University, RMIT University, & UNEP, *Environmental Impact Assessment Open Educational Resource*, available at <http://eia.unu.edu/about.html>.
- ²² Theo Hacking & Peter Guthrie, *A Framework For Clarifying The Meaning Of Triple Bottom-Line, Integrated, And Sustainability Assessment*, 28:2-3 *Envtl. Impact Assess Rev.* 73 (2008).
- ²³ UNEP STUDIES, *supra* note 3, at 4.
- ²⁴ Report From The Commission To The Council, The European Parliament, The European Economic And Social Committee And The Committee Of The Regions, On the Application and Effectiveness of the EIA Directive (Directive 85/337/EEC, as amended by Directives 97/11/EC and 2003/35/EC) (hereinafter “Report from the Commission”), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0378:FIN:EN:PDF>.
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- ²⁶ Report from the Commission, *supra* note 41.
- ²⁷ Ahmadvand et al., *supra* note 38.
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- ³⁴ Tinker et al., *supra* note 31.
- ³⁵ Ortolano et al., *supra* note 18, at 285.
- ³⁶ *Id.* at 287.
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- ³⁸ *Id.* at 187-88.
- ³⁹ See Meinhard Doelle & A. John Sinclair, *Time For A New Approach To Public Participation In EA: Promoting Cooperation And Consensus For Sustainability*, 26 *Envtl. Impact Assessment Rev.* 185, 186 ft.1 (2006).
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- ⁴³ John W. Stampe, *Lessons Learned from Environmental Impact Assessments: A Look at Two Widely Different Approaches – The USA and Thailand*, 8:1 *The J. of Transdisciplinary Env'tl. Studies* (2009).
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- ⁴⁵ Javier Toro et al., *Environmental Impact Assessment In Colombia: Critical Analysis and Proposals for Improvement*, 30:4 *Envtl. Impact Assessment Rev.* 247, 257 (2010).
- ⁴⁶ UNEP STUDIES, *supra* note 3, at 85.
- ⁴⁷ *Id.* at 90.
- ⁴⁸ M.V. Ramana & Divya Badami Rao, *The Environmental Impact Assessment Process For Nuclear Facilities: An Examination Of The Indian Experience*, 30 *Envtl. Impact Assessment Rev.* 268, 269 (2010).
- ⁴⁹ *Id.* at 270.
- ⁵⁰ *Id.*
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